

IN THE CIRCUIT COURT OF THE
17TH JUDICIAL CIRCUIT IN AND FOR
BROWARD COUNTY, FLORIDA

CASE NO.: 97009044

GAMBRO HEALTHCARE PATIENT
SERVICES, INC., a foreign corporation,

Plaintiff,

vs. .

MARK GINSBURG, SCOTT GINSBURG,
RICKI ROBINSON, RDDDL, INC. and
ROYCO, INC.,

Defendants.

A TRUE COPY
ROBERT E. LOCKWOOD

JUN 13 1997

COMPLAINT

Plaintiff, GAMBRO HEALTHCARE PATIENT SERVICES, INC. ("GAMBRO"),
files its Complaint and alleges:

GENERAL ALLEGATIONS

1. The amount in controversy exceeds \$15,000 exclusive of interest, costs and attorney's fees.
2. GAMBRO is the successor in interest to, and was formally known as, REN CORPORATION - USA (REN).
3. At all times pertinent to this action, Defendant, RDDDL, INC. (RDDDL), is and was a Florida corporation with its principal office in Broward County, Florida.
4. At all times relevant to this action, RDDDL did business as ESRD Laboratory (ESRD), a clinical testing laboratory that provides tests of blood and other bodily fluids primarily to persons suffering from end stage renal disease.

CONFORM COPY

5. As set forth below, Defendants, MARK GINSBURG, SCOTT GINSBURG and RICKI ROBINSON, were involved in the development, ownership and operation of ESRD. As such, these Defendants were doing business in Broward County, Florida, at all times relevant to this action.

6. At all times material to this action, Defendant, ROYCO, INC. (ROYCO), was a Florida corporation doing business in Broward County, Florida.

7. ROYCO owns and controls 48 percent of the stock of Defendant, RDDL.

8. SCOTT GINSBURG and RICKI ROBINSON have a direct interest in ROYCO and MARK GINSBURG has either a direct financial or other interest in ROYCO or an indirect interest in ROYCO in that his financial or other interest is held by SCOTT GINSBURG and RICKI ROBINSON for his benefit.

9. Defendants, MARK GINSBURG, SCOTT GINSBURG and RICKI ROBINSON, are siblings.

9. Upon information and belief, ROYCO was formed by MARK GINSBURG, SCOTT GINSBURG and RICKI ROBINSON with the intent to conceal MARK GINSBURG's interest and financial involvement in, and ownership and control of, RDDL.

10. In June of 1989, MARK GINSBURG, a medical doctor, entered into a "Medical Director's Agreement" with REN (hereafter referred to as the original Medical Director's Agreement). (See Composite Exhibit A.) At the time, a subsidiary of REN was engaged in the operation of a clinical laboratory in Pompano Beach, Florida, and other of its subsidiaries were engaged in the operation of outpatient dialysis clinics at various locations throughout the United States. Pursuant to the Medical Director's

Agreement, MARK GINSBURG agreed to serve as Medical Director for REN's laboratory in Pompano Beach and to serve also as Senior Vice-President, Clinical Laboratories, of certain of its subsidiaries. The term of the Medical Director's Agreement was five years, i.e., through June, 1994.

11. The original Medical Director's Agreement contained a "Non-Competition Covenant" which provided, in essence, that during the term of the agreement and for a period of two years thereafter, MARK GINSBURG would not, among other things: (1) operate, develop or own any interest in any multi-unit renal dialysis services facility and (2) compete directly or indirectly within a 40 mile radius of any business owned and operated by REN or its subsidiaries.

12. The original Medical Director's Agreement between REN and MARK GINSBURG was amended on November 15, 1989, by virtue of an "Amendment Agreement." (See Composite Exhibit A.) The Amendment Agreement modified certain terms of the original Medical Director's Agreement, but did not change the term of the original Agreement or the provisions of the Non-Competition Covenant.

13. On September 13, 1990, the original Medical Director's Agreement and the Amendment Agreement were modified further by virtue of a "Second Amendment Agreement to Medical Director's Agreement." (See Composite Exhibit A.) Among other things, the Second Amendment Agreement extended the term of the parties' agreement, including the Non-Competition Covenant, to December 31, 2000. The Second Amendment Agreement did not change the provisions of the Non-Competition Covenant contained in the original Medical Director's Agreement.

14. On May 13, 1992, REN and MARK GINSBURG again modified the terms

of their relationship by executing a "Third Amendment Agreement to Medical Director's Agreement." (See Composite Exhibit A.) This Third Amendment Agreement reduced the expiration date of the term of their agreement from December 31, 2000, to May 13, 1999. The Third Amendment Agreement also modified the compensation payable to MARK GINSBURG as well as the provisions of the Non-Competition Covenant contained in the original Medical Director's Agreement.

15. The Non-Competition Covenant in the Third Amendment Agreement prohibits MARK GINSBURG and any member of his family from, among other things (i) operating, developing or having any ownership or other direct or indirect interest in any multi-unit renal dialysis services facility or in any clinical laboratory located in Florida or within forty (40) miles of any facility operated by REN or its subsidiaries or affiliates or receive any direct or indirect financial benefit from any such facility (ii) competing directly or indirectly with REN, its subsidiaries and affiliates within Florida or within forty (40) miles of any facility operated by REN, its subsidiaries and affiliates (iii) interfering with, soliciting, disrupting or attempting to disrupt any past, present or prospective contract or relationship between REN, its subsidiaries and affiliates and any physician, customer, client etc. (iv) obtaining any direct or indirect financial benefit from any multi-unit renal dialysis services facility or from any clinical laboratory located in Florida or within forty (40) miles of any such facility operated by REN, its subsidiaries and affiliates and which is directly or indirectly owned, operated or managed by the brothers, sisters, mother, father or grandparents of MARK GINSBURG, by the spouses of such persons or by any partnership, corporation or other entity in which MARK GINSBURG or any member of his family has any direct or indirect interest. The Non-Competition

Covenant specifically provides that it does not in any way restrict MARK GINSBURG from practicing medicine in the state of Florida.

16. The contractual relationship between REN (now GAMBRO HEALTHCARE) and MARK GINSBURG remains in full force and effect and is enforceable by REN's successor, GAMBRO. As such, MARK GINSBURG, whether acting personally or through his family members, has been and continues to be bound by the provisions of the Non-Competition Covenant contained in the Third Amendment Agreement.

17. Bernard D. Pachter (Pachter) was the former President and Chief Executive Officer of RDDDL. Pachter, through his corporation, Pachter Corp., owns 48 percent of the stock of RDDDL. In 1996, Pachter and Pachter Corp. filed a lawsuit against MARK GINSBURG, SCOTT GINSBURG, RICKI ROBINSON, ARTHUR ROSENTHAL, KENT MAHLKE, DANIEL M. LANDIS, TEDESCO & LANDIS, P.A. and ROYCO, INC., in Broward County, Florida (Case No.: 96-16793 (21)). In that lawsuit, Pachter and Pachter Corp. allege, among other things, that the establishment of ESRD was instituted by MARK GINSBURG as part of a fraudulent scheme to defraud GAMBRO. This lawsuit is still pending. A copy of Pachter's Verified Complaint is attached as Exhibit B.

18. At all times material to this action, GAMBRO has owned and operated a clinical testing laboratory in Broward County, Florida. Among other things, GAMBRO's clinical testing laboratory in Broward County performs tests of blood and other bodily fluids to persons suffering from end stage renal disease. ESRD's clinical testing

laboratory in Broward County, competes directly with GAMBRO's clinical testing laboratory in Broward County.

19. Upon information and belief, MARK GINSBURG, SCOTT GINSBURG and RICKI ROBINSON were directly involved in developing, forming and establishing ESRD. Further, MARK GINSBURG, SCOTT GINSBURG and RICKI ROBINSON have been directly involved in the operation and management of ESRD. MARK GINSBURG, SCOTT GINSBURG and RICKI ROBINSON have a direct or indirect financial interest in ESRD and receive a direct or indirect financial benefit from it.

20. At all times material to this action, Defendants, SCOTT GINSBURG, RICKI ROBINSON and ROYCO, knew of MARK GINSBURG's Non-Competition Covenant with GAMBRO and also knew that any participation or involvement by MARK GINSBURG in the ownership, management and control of ESRD would violate the terms of the Non-Competition Covenant and thereby amount to a breach of the Third Amendment to Medical Director's Agreement.

21. At all times material to this action, Defendants, SCOTT GINSBURG, RICKI ROBINSON and ROYCO, aided and abetted Defendant, MARK GINSBURG, in violating his Non-Competition Covenant with GAMBRO and thereby breaching the Third Amendment to Medical Director's Agreement by assisting him in concealing his personal involvement in developing, forming and establishing ESRD as well as his personal involvement in operating and managing ESRD. These Defendants have also aided and abetted MARK GINSBURG in concealing his ownership of, and financial interest in ESRD.

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**COUNT I - CLAIM FOR INJUNCTIVE RELIEF
AGAINST ALL OF THE DEFENDANTS**

22. GAMBRO incorporates and reasserts the General Allegations of paragraphs 1 through 21.

23. The Third Amendment to Medical Director's Agreement is, and has been since its execution, a legally binding contract between MARK GINSBURG and REN and is presently enforceable by GAMBRO. As such, MARK GINSBURG is and has been legally bound by the Non-Competition Covenant contained in the Third Amendment to Medical Director's Agreement.

24. MARK GINSBURG has violated the terms of his Non-Competition Covenant as follows: (1) by being involved, personally and through his family, in the development, formation and establishment of ESRD; (2) by being involved, personally and through his family, in the ongoing operations and management of ESRD; (3) by having, both personally and through his family, an ownership and/or financial interest in ESRD; (4) by competing, personally and through his family, with GAMBRO in the laboratory testing business; and (5) by receiving, personally and through his family, a direct or indirect financial benefit from ESRD.

25. As a direct and proximate result of MARK GINSBURG's violation of his Non-Competition Covenant, GAMBRO has suffered, and will continue to suffer, irreparable injury. This injury includes, but is not limited to, loss of trade secrets, lost customers and business and the unauthorized disclosure of confidential business information. The enforcement of the Non-Competition Covenant would protect GAMBRO's legitimate business interests.

26. Since there is no adequate remedy at law to redress MARK GINSBURG's violation of his Non-Competition Covenant, GAMBRO seeks to have MARK GINSBURG temporarily and permanently enjoined from violating the terms and conditions of the Non-Competition Covenant. GAMBRO also seeks injunctive relief against ESRD, which was established in direct violation of MARK GINSBURG's Non-Competition Covenant. More specifically, GAMBRO seeks to enjoin ESRD and the other Defendants from competing with it during the term of MARK GINSBURG's Non-Competition Covenant.

27. The original Medical Director's Agreement and amendments thereto allow GAMBRO to recover its reasonable attorney's fees in prosecuting any action to enforce the terms of these agreements.

28. GAMBRO has retained the undersigned law firm and has agreed to pay it a reasonable fee for its services.

29. All conditions precedent to this action have occurred, been satisfied or been waived.

WHEREFORE, GAMBRO seeks both a temporary and permanent injunction against the Defendants, its reasonable attorney's fees and costs and such other relief as the Court deems just and proper.

**COUNT II - CLAIM AGAINST MARK GINSBURG
FOR BREACH OF CONTRACT**

30. GAMBRO incorporates and reasserts the General Allegations as well as the allegations contained in paragraphs 27 through 29.

31. The Third Amendment to Medical Director's Agreement is, and has been since its execution, a legally binding contract between MARK GINSBURG and REN and is presently enforceable by GAMBRO. As such, MARK GINSBURG is and has been legally bound by the Non-Competition Covenant contained in the Third Amendment to Medical Director's Agreement.

32. MARK GINSBURG has violated the terms of his Non-Competition Covenant as follows: (1) by being involved, personally and through his family, in the development, formation and establishment of ESRD; (2) by being involved, personally and through his family, in the ongoing operations and management of ESRD; (3) by having, both personally and through his family, an ownership and/or financial interest in ESRD; (4) by competing, personally and through his family, with GAMBRO in the laboratory testing business; and (5) by receiving, personally and through his family, a direct or indirect financial benefit from ESRD.

33. In the event the Court determines that an adequate remedy at law exists, GAMBRO seeks damages based upon MARK GINSBURG's violation of his Non-Competition Covenant with GAMBRO. These damages include, but are not necessarily limited to, the loss of revenue directly related to ESRD's unlawful competition with GAMBRO. Alternatively, GAMBRO seeks damages equivalent to the amount paid to MARK GINSBURG pursuant to the original Medical Director's Agreement and the various amendments thereto.

WHEREFORE, GAMBRO seeks judgment against MARK GINSBURG for damages, its reasonable attorney's fees and costs and such other relief as the Court deems just and proper.

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IN THE CIRCUIT COURT OF THE
17TH JUDICIAL CIRCUIT, IN AND
FOR BROWARD COUNTY, FLORIDA

BERNARD D. PACHTER,
and PACHTER CORP.,
a Florida corporation,

00015703

CASE NO.

Plaintiffs,

vs. :

✓ MARK GINSBURG; ✓ SCOTT GINSBURG;
✓ RICKI ROBINSON; ✓ ARTHUR ROSENTHAL;
✓ KENT MAHLKE; ✓ DANIEL M. LANDIS;
✓ TEDESCO & LANDIS, P.A. and ✓ ROYCO, INC.,

21

Defendants.

COMPLAINT

Plaintiffs BERNARD PACHTER and PACHTER CORP. sue Defendants, MARK GINSBURG, SCOTT GINSBURG, RICKI ROBINSON, ARTHUR ROSENTHAL, KENT MAHLKE, DANIEL M. LANDIS, TEDESCO & LANDIS, P.A. and ROYCO, INC. and allege:

INTRODUCTION

1. This is an action brought by Bernard D. Pachter and Pachter Corp. against Defendant Mark Ginsburg for fraud and misrepresentation. Defendant Mark Ginsburg instituted a fraudulent scheme apparently calculated to defraud Gambro International, Inc. In doing so, Mark Ginsburg defrauded Bernard D. Pachter and victimized him by using his good name, reputation, knowledge, experience and contacts to develop an End Stage Renal Dialysis Laboratory under false and fraudulent circumstances. Mark Ginsburg was aided and abetted in his deceitful scheme by using "False Nominees" in the persons of Defendants Royco, Inc. Scott Ginsburg and Ricki Robinson who knowingly participated in the strategy to conceal Mark Ginsburg's fraudulent ownership, control and

EXHIBIT B

participation in RDDDL, Inc. d/b/a ESRD Laboratory. As a consequence of this sophisticated scheme to defraud, the vested ownership, control, income and benefits to which Plaintiffs are entitled is in jeopardy of being taken, forfeited and lost. Moreover, the profits to which RDDDL, Inc. is entitled from its substantial business enterprise is subject to forfeiture claim by those persons directly and indirectly defrauded by Mark Ginsburg.

2. This is also an action by Bernard D. Pachter against Defendant Mark Ginsburg and his co-conspirators, Defendants Scott Ginsburg, Ricki Robinson, Daniel M. Landis for tortious interference with the advantageous business relationship that Plaintiffs have with RDDDL, Inc. d/b/a ESRD Laboratory. Each of these Defendants, contrary to affirmative representations as well as established contracts and agreements, participated individually and jointly in a tortious effort to erode the control, management, responsibility that Bernard D. Pachter had with RDDDL, Inc. It was part of this dishonest effort to affirmatively damage his honor and reputation by creating false claims of malfeasance, nonfeasance, criminal misconduct, dishonesty and breach of fiduciary duty in an effort to extort income, control and management from Bernard D. Pachter. In pursuing these efforts, the Defendants through their agent threatened to seek criminal sanctions which were unfounded. In furtherance of this scheme, the parties falsely claimed dishonest and fraudulent actions by Bernard D. Pachter and affirmatively engaged in a course of conduct calculated to subject Bernard D. Pachter to scorn and ridicule and thereby force him to relinquish his positions of Chairman of the Board and President and Chief Executive Officer of RDDDL, Inc. d/b/a ESRD Laboratory.

3. It was further action by Bernard D. Pachter and Pachter Corp. against Defendants Scott Ginsburg, Ricki Robinson, Royco, Inc., Arthur Rosenthal and Kent Mahlke, who, in conjunction with the tortious acts, false and fraudulent efforts of Defendant Mark Ginsburg, made

a calculated effort to breach the terms of the Shareholders Agreement, a contract which was entered by the parties to ensure that Bernard D. Pachter and Pachter Corp. would not lose control and management responsibility of RDDDL, Inc. d/b/a ESRD Laboratory. This Breach of Contract included unauthorized tortious conduct and fraudulent interference by the Defendants to the detriment and damage of Bernard D. Pachter and Pachter Corp.

4. This is further an action brought by Pachter Corp. against Defendants Scott Ginsburg, Ricki Robinson and Arthur Rosenthal, who as Directors of RDDDL, Inc., knowingly participated in a civil fraud that jeopardizes the ownership, control and profits of RDDDL, Inc. This complaint cites the failures of these directors and officers as causing and contributing to the fraudulent situation and asks that they be held accountable and responsible on grounds that they breached their fiduciary duties to RDDDL, Inc. and committed fraudulent acts in the conduct of the affairs of RDDDL, Inc. which jeopardizes the business and profits of RDDDL, Inc. d/b/a ESRD Laboratory.

5. This is also an action by Bernard D. Pachter and Pachter Corp. against attorneys Daniel M. Landis and Tedesco & Landis, P.A. who had the duty to handle plaintiff's affairs with the utmost degree of honesty, forthrightness, loyalty and fidelity and not to reveal or utilize any information communicated to them by the Plaintiffs. These attorneys, despite unconscionable breaches of duty and ethics toward their current and former clients, engaged in an improper campaign to aid, abet, assist, counsel and direct Defendant Mark Ginsburg and his co-conspirators, to destroy the name, reputation, financial position and general well-being of Plaintiffs. Despite this serious conflict of interest, these defendants have continued to aid and abet the Ginsburg Defendants in an attempt to falsely create claims of malfeasance, nonfeasance, criminal conduct and to destroy the advantageous business relationship that Bernard D. Pachter and Pachter Corp. had with RDDDL,

Inc. d/b/a ESRD Laboratory. Moreover, these defendants participated with Defendant Mark Ginsburg in the described scheme to defraud. Further, in their capacity as attorneys knowingly aided abetted and facilitated the commission of civil fraud and misrepresentation, and participated in a scheme to defraud which was calculated to prevent Bernard Pachter from enjoying the benefits of his efforts. Accordingly, these defendants should be disqualified from further participation in any action alone or in concert with the Ginsburg Defendants which are calculated to conflict with the personal, business and financial interests of Bernard D. Pachter and Pachter Corp. In addition, these defendants should be prohibited from consulting with new lawyers for the Ginsburg Defendants and their efforts and work-product should be sealed from disclosure to any new attorneys for the Ginsburg Defendants.

THE PARTIES

6. RDDDL, Inc., is a Florida Corporation, d/b/a ESRD Specialty Lab (hereinafter "RDDDL" or "ESRD"), with its principal place of business at 830 N.W. 57th Court, Fort Lauderdale, Florida 33309. ESRD is a state-of-the-art scientific laboratory which provides specialize blood analysis for Renal Dialysis Clinics throughout the United States. The following persons are the sole Shareholders of RDDDL, Inc. d/b/a ESRD Specialty Lab, each owning common stock in the amounts indicated:

Pachter Corp.	480 shares
Royco, Inc.	480 shares
Arthur Rosenthal	20 shares
Kent F. Mahlke	20 shares

7. Pachter Corp. is a Florida Corporation which has its principal place of business at 4811 Banyan Lane, Tamarac, Florida 33319 and is the owner of a 48% interest in RDDDL. Bernard

D. Pachter is the sole shareholder of record of Pachter Corp. In addition, Pachter Corp is a party to an August 1995 Shareholder's Agreement drawn pursuant to Florida Statutes, Section 607.0732, which was negotiated to govern the relationship, procedures and actions of the Directors, Officers, and Shareholders of RDDDL.

8. Bernard D. Pachter is the duly elected Chairman of the Board, President and Chief Executive Officer of RDDDL by virtue of the terms of the Shareholder's Agreement and in accordance with the agreement of the parties in which to own, control and operate the business enterprise of RDDDL. Plaintiff Pachter is a resident of Broward County, Florida. Under his leadership, management, and expertise, RDDDL has had remarkable growth and substantial prosperity.

9. Defendant Royco, Inc. is a Florida Corporation which claims offices for the transaction of business at 1346 Foothill Blvd., Suite 201, La Canada, California 91011 as is the owner of 48% interest in RDDDL. Royco, Inc. does business in Broward County, Florida. Upon information and belief, Defendant Mark Ginsburg established this corporation in an effort to conceal his direct and indirect ownership, participation and control in RDDDL and holds this stock either in "bearer" names or has used his siblings as "nominees" to fraudulently conceal his ownership, participation and control of RDDDL. At all times pertinent to this complaint, Royco, Inc. was the vehicle through which the various defendants acted in order to further the tortious acts outlined in this complaint and thereby, acted in furtherance of the tortious acts in its own behalf.

10. Defendant Mark Ginsburg while a resident of Boca Raton, Florida, at all pertinent times did business and committed tortious acts in Broward County, Florida. Upon information and belief, Mark Ginsburg a party to a legally binding contractual agreement whereby he is legally prohibited from financing, owning, operating, controlling or participating in any business that is

competitive to Gambro A.B. and its subsidiaries, including Gambro Healthcare. At all pertinent times, RDDL and ESRD was and is in direct competition with the laboratories and business of Gambro A.B., and its subsidiaries, in that its laboratory services competes for the same business with the identical clinics doing Renal Dialysis throughout the United States. Upon information and belief, Mark Ginsburg is secretly the beneficial owner of Royco, Inc.. Mark Ginsburg, in his personal capacity, directly and indirectly participates in the control and management of RDDL.

11. Upon information and belief, Gambro Healthcare, formerly Ren Corporation U.S.A., is a business owned by Cobe Laboratories of Lakewood, Colorado which is the U.S. subsidiary of Gambro A.B., a Swedish medical company (hereinafter "Gambro"). At all pertinent times to this complaint, Gambro is a laboratory which performs specialized laboratory analysis for Renal Dialysis Clinics throughout the United States and is in direct business competition with RDDL through Cobe and Ren in the United States. At all pertinent times to this complaint, RDDL is a laboratory which performs specialized laboratory analysis for Renal Dialysis Clinics throughout the United States and is in direct business competition with Gambro in the United States.

12. Defendant Scott Ginsburg is a Director of RDDL who resides in Texas and receives his mail c/o Evergreen Media, 433 East Las Colinas Blvd, Suite 1130, Irving Texas 75039. Defendant Scott Ginsburg purports to be an officer and shareholder of Royco, Inc. which does business in Broward County, Florida. At all pertinent times, Defendant Scott Ginsburg committed tortious acts in Broward County, Florida. Upon information and belief, Defendant Scott Ginsburg has aided, abetted and assisted his brother Defendant Mark Ginsburg by acting as a nominee in order to conceal the Mark Ginsburg's ownership, control and participation in RDDL.

13. Defendant Ricki Robinson is a Director, Secretary and Treasurer of RDDL who

resides in California and receives her mail at 1346 Foothill Blvd., Suite 201, La Canada, California 91011. Defendant Ricki Robinson purports to be President and a shareholder of Royco, Inc. which does business in Broward County, Florida. Defendant Ricki Robinson committed tortious acts in Broward County, Florida. Upon information and belief, Defendant Ricki Robinson has aided, abetted and assisted her brother Defendant Mark Ginsburg by acting as a nominee in order to conceal Mark Ginsburg's ownership, control and participation in RDDDL.

14. Defendant Arthur Rosenthal is a Director, Vice President and Shareholder of RDDDL. Defendant Rosenthal is a party to the Shareholder's Agreement alleged herein. He was hired by President Bernard D. Pachter to be a Laboratory Director for ESRD and to perform those functions assigned to him by management. Dr. Rosenthal is a resident of, and committed tortious acts in, Broward County, Florida.

15. Defendant Kent F. Mahlke is a Shareholder of RDDDL. Defendant Mahlke is a party to the Shareholder's Agreement alleged herein. He was hired by President Bernard D. Pachter to be Sales Manager for ESRD and to perform those functions assigned to him by management. Defendant Mahlke committed tortious acts in Broward County, Florida.

16. Roy H. Bresky is a Director of RDDDL. Upon information and belief, he did not knowingly participate in the fraud and tortious misconduct of Defendant Mark Ginsburg, but acted as an unwitting accomplice in the tortious acts perpetrated by Defendant Mark Ginsburg and aided and abetted by Defendants Scott Ginsburg, Ricki Robinson, Arthur Rosenthal and Kent Mahlke.

17. As used in this complaint, the "Ginsburg Defendants" include Defendants Royco, Inc., Mark Ginsburg, Scott Ginsburg and Ricki Robinson who are siblings and have participated with each other, and with others, in tortious acts calculated to injure and defraud Plaintiffs Bernard D.

Pachter and Pachter Corp.

18. Defendant Tedesco & Landis, P.A. is a Florida professional association committed to the practice of law in Florida and Defendant Daniel M. Landis is an attorney admitted to practice in Florida and is a named shareholder of Defendant Tedesco & Landis, P.A.. These Defendants have a principal place of business at Compson Financial Center, Suite 302, 980 North Federal Highway, Boca Raton, Florida 33432. In addition, these defendants acted as counsel to RDDI, Pachter Corp., Rayco, Inc., Bernard D. Pachter, Mark Ginsburg, Scott Ginsburg and Ricki Robinson and committed tortious acts in Broward County, Florida.

JURISDICTION AND VENUE

19. Jurisdiction and venue are proper in Broward County because all of the defendants either reside in Broward County, have a principal place of business in Broward County and/or committed tortious acts in Broward County and because all or substantially all of the acts charged herein occurred in Broward County and the claims arose in Broward County, Florida.

BACKGROUND AND GENERAL ALLEGATIONS

20. Beginning in approximately 1954, Bernard D. Pachter started a medical laboratory for scientific analysis. Bernard D. Pachter was the founder, President and Chief Executive Officer for Central Bioanalytical Laboratories from its inception through to its sale to the Revlon Corporation in 1969. During this period, Bernard Pachter became a leader in this industry by becoming an expert with significant knowledge and experience in the establishment and operation of medical laboratories. In addition, he established an excellent reputation throughout the industry because of his knowledge, experience and expertise in the established, management and operations of medical laboratories in order to meet the needs of the medical profession. Throughout the course

of his professional career. Bernard D. Pachter established an excellent reputation in connection with his ability to establish and maintain a laboratory which provides reliable laboratory services. Throughout his professional career, Bernard D. Pachter was frequently approached to impart his expert knowledge and experience in this specialized field of medical services and has frequently acted as a consultant to laboratories.

21. In or about May 1995, Bernard D. Pachter was approached by Mark Ginsburg who told Mr. Pachter that he was searching for an experienced expert with a national reputation that had extensive knowledge in the establishment, operation and management of a laboratory capable of performing reliable laboratory services to Renal Dialysis Clinics throughout the United States. At the time, Mark Ginsburg told Mr. Pachter that he was acting for and on behalf of his brother Scott Ginsburg and his sister Ricki Robinson in order to find the appropriate person to establish and operate this specialty laboratory. Mark Ginsburg told Mr. Pachter that they wanted Mr. Pachter because they were convinced by his reputation in the industry that he could establish, operate and manage a successful laboratory.

22. At that time, Mark Ginsburg explained that he could not participate in the ownership, management, control or operations of any such laboratory because he had a legally binding contract with Gambro which prohibited direct or indirect competition with Gambro. He maintained that he would have no personal interest and would not be able to participate in the management or operations of a laboratory that competed directly or indirectly with Gambro.

23. Mark Ginsburg advised that he was acting for and on behalf of Scott Ginsburg and Ricki Robinson who would be the "owners" of the business and provide all the necessary financial backing and would fund the establishment and growth of the new company. Mark Ginsburg

explained that, because of his contract with Gambio, as well as the fact that he maintained an active medical practice, he would not "participate" in RDDDL. Indeed, Mark Ginsburg told Mr. Pachter that he had limited authority to negotiate with Mr. Pachter concerning the terms of the joint venture relationship in RDDDL on behalf of his brother and sister.

24. Bernard Pachter, for a salary of \$150,000 per year plus a leased automobile, agreed that he would be President and Chief Executive Officer of RDDDL and he would be responsible to establish the laboratory, identify the principal staff, develop the business plan, establish the protocols, obtain the licensing and generally perform all of the functions necessary to establish a state-of-the-art laboratory to service Renal Dialysis Clinics in the United States. The agreement was that Bernard Pachter would act as Chairman, President and Chief Executive for a period of at least 5 years. In addition, Bernard Pachter agreed that, in return for his expertise, participation and services, that he would be a 50% owner of RDDDL who would thereby enjoy the benefits of his labors on behalf of RDDDL.

25. Also by agreement, Scott Ginsburg and Ricki Robinson would be owners of 50% of the stock of RDDDL in return for their agreement to fund RDDDL through a series of loans to RDDDL. As part of this agreement, Bernard D. Pachter was told that the Ginsburg Defendants would provide, through loans to be repaid from RDDDL, all of the funding necessary to establish the laboratory and insure its proper growth and development. Mark Ginsburg told Mr. Pachter that his siblings were very wealthy and would be able to fund the corporation without a problem. In addition, Mark Ginsburg advised that he had assured his brother and sister that this laboratory would be a wonderful investment that would provide, not only a quick repayment of the money loaned, but would create substantial profits from the operations.

26. Throughout the period from May 1995 through February 1996, there were virtually no business meetings or business discussions between Bernard Pachter as Chairman, President and Chief Executive Officer and Defendants Scott Ginsburg and Ricki Robinson. Instead, the communication was always with Defendant Mark Ginsburg who purported to act on their behalf and with their full authority. Bernard Pachter performed his duties as agreed throughout this period of time in order to establish ESRD and to manage and operate the enterprise with great dedication.

27. In addition, from the beginning of the business enterprise, as a personal accommodation to the RDDDL which was not yet receiving revenues, Bernard Pachter agreed to simply accrue his salary until such time as RDDDL would have its monthly income exceed its expenses. Indeed, as of the date of this complaint, Bernard Pachter has not taken his salary and he is owed in excess of \$225,000.

28. As part of his compensation, Bernard Pachter was induced to lease an automobile in his personal name with the expense to be paid monthly by RDDDL. In fact, Mr. Pachter was specifically instructed to lease an automobile under his own name, rather than in the name of and through the corporation. Accordingly, Mr. Pachter leased an automobile in his personal name and on his personal credit. Although RDDDL had previously paid this expense without dispute, despite numerous requests from Mr. Pachter, the Defendants have failed and refused to authorize the payment of the automobile expense. This is a calculated effort by the Defendants to economically extort Mr. Pachter to abandon his claims or suffer credit problems.

29. In addition, throughout the period from the beginning of this business, Mr. Pachter voluntarily advanced personal funds on behalf of RDDDL in order to acquire equipment and other needed expenses for the benefit of RDDDL. These expenses were to be immediately reimbursed by

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RDDL. Using this method, over the period, Mr. Pachter advanced funds from his personal Citibank Mastercard in excess of \$20,000 as part of his accommodation to RDDL. For funds advanced, Mr. Pachter is owed approximately \$5,000. Despite numerous requests from Mr. Pachter, the Defendants have failed and refused to authorize the payment of the automobile expense. This is a calculated effort by the Defendants to economically extort Mr. Pachter to abandon his claims or suffer credit problems.

30. Throughout the course of the development and growth of RDDL, Mark Ginsburg personally, and purportedly on behalf of Scott Ginsburg and Ricki Robinson, praised the ability, expertise, work and accomplishments of Bernard Pachter. Mark Ginsburg told Bernard Pachter that the Ginsburg Defendants recognized that the remarkable growth and expansion of ESRD was due to the ideas and dedication of Bernard Pachter.

31. In order to facilitate the reputation and identity of RDDL, Bernard Pachter identified key personnel who he believed would bring needed expertise and skills to the establishment of RDDL. Indeed, Bernard Pachter identified and recruited Arthur Rosenthal to be Laboratory Director and Kent Mahlke to be Manager of Sales. As part of the incentive to these key personnel, Bernard Pachter sought to give these persons a part of the company. Indeed, Bernard Pachter agreed with Mark Ginsburg, on behalf of his siblings, to each give 2% ownership of RDDL to each of these key personnel. Bernard Pachter explained to Mark Ginsburg, and he agreed, that it would be important for these key personnel to have a vested interest in the corporation.

32. Mark Ginsburg treated Bernard Pachter with great respect and admiration. In the beginning, Mark Ginsburg introduced Bernard Pachter to the attorneys at Tedesco & Landis who would perform legal services and consult concerning the formation of RDDL as a Florida

corporation. However, to the surprise of Bernard Pachter, Mark Ginsburg suggested that instead of each person owning the stock personally, it was "better" for the principal shareholders to own the stock through separate corporations. As a consequence of this insistence by Mark Ginsburg, 96% of the stock of RDDDL is owned by Florida Corporation: 48% is owned by Royco, Inc. and 48% is owned by Pachter Corp. In addition, the attorneys at Tedesco & Landis consulted personally with Bernard Pachter and assisted him in establishing Pachter Corp., his personal corporation in order to own the stock of RDDDL. For unknown reasons, attorney Daniel M. Landis consulted personally with Mark Ginsburg concerning the incorporation and ownership of Royco, Inc.

33. Upon information and belief, by reason of the manner and nature of the incorporation of Royco, Inc., Tedesco & Landis facilitated Mark Ginsburg in concealing his ownership interest in RDDDL as knowing accomplices to the Ginsburg Defendants fraud upon Gambro as is more fully described herein. This facilitation had a tortious impact upon Bernard D. Pachter and Pachter Corp. Indeed, the truth of this allegations becomes more apparent by reason of the recent efforts by Tedesco & Landis to destroy the reputation of Bernard Pachter in an effort to assist others to take control and management of RDDDL away from Bernard D. Pachter.

34. In or about August 1995, the parties negotiated a Shareholder's Agreement which was to control the operations and management of RDDDL. Pursuant to that agreement, Bernard Pachter was to be able to maintain his management control of RDDDL. The retention of management control of RDDDL was one of the fundamental reasons for the Shareholder's Agreement in the first instance. In addition, in order to preserve the integrity of the Board of Directors, and to prevent the interference by the Board of Directors with the Management and operations of RDDDL, there were specific agreements concerning quorum requirements and voting requirements for virtually every meaningful

aspect of the control of RDDL. A copy of this Shareholder's Agreement is attached as Exhibit A.

35. By reason of the Shareholder's Agreement, Bernard Pachter's management and control of RDDL was to be without interference by the Board unless and until there was unanimous agreement as to the operations of RDDL. Indeed, in order for there to be any legitimate action by the Board of Directors, there must be proper notice and a quorum and all the Directors must vote in favor of a particular action in order for there to be a valid act of the Board of Directors.

36. Despite their provisions, upon information and belief, there has been a concerted effort by Defendant Mark Ginsburg to tortiously interfere with Bernard Pachter's advantageous business relationship with RDDL and to challenge the management control and authority of Bernard Pachter as President and Chief Executive of RDDL.

37. Despite conflicts of interest and breach of ethics, Tedesco & Landis, by and through Daniel M. Landis and others, has embarked upon an unscrupulous effort to tortiously interfere with the advantageous business relationship of Bernard Pachter to RDDL by manufacturing bogus claims of malfeasance, nonfeasance and misconduct calculated to undermine Mr. Pachter's reputation and authority within RDDL. Indeed, Tedesco & Landis aided and abetted the Ginsburg Defendants in their efforts to tortiously interfere with the business relationships of Bernard Pachter.

38. Over the course of the several months from May 1995 through February 1996, Bernard D. Pachter performed his duties as Chairman of the Board, President and Chief Executive Officer. The progress in establishing the laboratory was remarkable in its efficiency and achievement.

39. In February 1996 ESRD opened its specialty laboratory to perform state-of-the-art laboratory services to Renal Dialysis Clinics. The growth of RDDL has been spectacular. Although

reasonable growth might be to predict servicing approximately 25 clinics within the first year, because of the skill and expertise of Bernard Pachter, he has had the foresight to encourage and motivate his management team to achieve results far beyond projections and expectations. Indeed, by the end of 1996, it is anticipated that this newly formed laboratory will service nearly 90 Renal Dialysis Clinics throughout the United States. Because of the innovations in the operations of RDDL, attributed to the expertise, knowledge and skill of Bernard Pachter, ESRD has been able to provide superior laboratory service and by reputation and hard-work. ESRD has become a leading laboratory for Renal Dialysis Clinics in the United States. Indeed, it appears that sales have grown so well that it is likely that gross sales will exceed \$1 million per month beginning in January 1997. All this in less than a single year of operations in an industry where superior skill, prompt and superior service and reputation are the only measures of successful competition.

40. In the beginning of the development of ESRD, Defendant Mark Ginsburg relied totally upon Bernard Pachter to establish and manage the laboratory. Indeed, he repeatedly stated that his siblings were very pleased and satisfied with the progress and development of the ESRD. Of course, they should be satisfied because ESRD was performing beyond expectations.

41. As time went on, there was an inexplicable increase in "participation" by Mark Ginsburg in the operations of RDDL. He inserted himself in hiring and personnel decisions, he started actively participating in the operational decisions and attempted to insert himself in every major decision on behalf of RDDL. When gently confronted by Bernard Pachter, Mark Ginsburg said that he was acting upon the instructions and for the benefit of Scott Ginsburg and Ricki Robinson. It was with this justification that Mark Ginsburg claimed that he assumed control of the financial aspects of RDDL. He hired the Chief Financial Officer of his selection and maintaining

constant vigilance as to funding, payments, and various of the important financial affairs of RDDL.

42. Bernard Pachter became more and more suspicious because there was virtually no time when Scott Ginsburg or Ricki Robinson ever conferred with Bernard Pachter. Indeed, they never personally provided any advice, participation, encouragement, management suggestions or recommendations that you would normally expect from such substantial investors. Indeed, they never requested any financial information and never scheduled a meeting to discuss the financing need of RDDL. Further, even when the growth of ESRD was so rapid that funding had to be dramatically increased, there was never any meeting or collaboration by Scott Ginsburg or Ricki Robinson to determine the nature of the operations or the financial needs of the business. Instead, the growth of ESRD seemed to geometrically increase the active participation of Mark Ginsburg in the management and operations. Despite questions, Mark Ginsburg always protested that his participation was not "personal," but only on behalf of his brother and sister.

43. Moreover, in a major decision concerning the location of the laboratory, Mark Ginsburg "insisted" despite recommendations otherwise, that the laboratory and offices had to be located in a building owned by the Ginsburg Defendant's mother. This was so despite the fact that such a location would be geometrically more expensive and require extensive increases in costs. Nevertheless, Mark Ginsburg said it was the at the insistence of Scott Ginsburg and Ricki Robinson that the laboratory be located in a building apparently owned by their mother.

44. The suspicions of Bernard Pachter were increased because Mark Ginsburg seemed to ignore the prohibitions that he had previously described to Mr. Pachter regarding his legal agreement with Gambro. In addition, he always suggested that he was only acting on behalf of his brother and sister. However, the actions of Mark Ginsburg seemed to be suspiciously more like an

"investor" as contrasted to a relative of the principal investors. In addition, Mark Ginsburg recently resigned from his medical practice. As a consequence, he seemed to take an even more dramatic interest in the operations and management of RDDL.

45. Upon information and belief, the Ginsburg Defendants opened a bank account at the NationsBank in Ft. Lauderdale purportedly in the name of Scott Ginsburg and Ricki Robinson in order to act as a vehicle for the funding of RDDL. Although funding purportedly came from this account to RDDL, there was never any communication from Scott Ginsburg or Ricki Robinson concerning this account. As a consequence, it is of great concern to Mr. Pachter that this is another vehicle used by the Ginsburg Defendants to accomplish the illegal and improper scheme as outlined in this complaint. Instead, upon information and belief, this account is controlled by Defendant Mark Ginsburg in furtherance of his scheme to defraud.

46. Also, Mark Ginsburg seemed to express extraordinary delight if ESRD competed successfully with Gambro for laboratory services or if ESRD were to hire Gambro employees to work for ESRD. Each of these clues created more suspicions in Bernard Pachter.

47. With his suspicions raised, Bernard Pachter became concerned that the illegal participation by Mark Ginsburg in the management and operations of ESRD would jeopardize the ownership, control and profits of RDDL. Bernard Pachter raised the concern that because Gambro had an enforceable contract with Mark Ginsburg, it could sue to enforce that contract and would determine that Mark Ginsburg had knowingly, intentionally and with intent to injure and defraud Gambro engaged in a business that was directly competitive with Gambro. Mark Ginsburg denied any conflict or problems.

48. With these concerns raised, Bernard Pachter recalled that Mark Ginsburg had

confided in Mr. Pachter that the family had a serious legal problem with their father Jordan Ginsburg. Through research it was discovered that the Federal Deposit Insurance Corporation (FDIC) had sued not only Jordan Ginsburg, but also Scott Ginsburg, Mark Ginsburg and Ricki Robinson who acted as "nominees" for the assets of Jordan Ginsburg in an effort to defraud the FDIC and conceal the actual ownership of stock. The law suit is pending in the United States District Court for the Southern District of Florida as Case No.93-8673- CIV-Gonzalez.

49. With the additional knowledge of these alleged fraudulent transactions by Mark Ginsburg and his family, it became more apparent that the entire scheme from the beginning was a fraudulent effort to conceal the actual ownership of RDDDL by Mark Ginsburg. The legitimate concern was that the reason for the concealment was to perpetrate a fraud upon Gambro. A direct consequence of the fraud, was to implicate Bernard Pachter as an accomplice in an extensive fraud and to endanger the investment that Mr. Pachter had in RDDDL.

50. In order to take advantage of and profit from Bernard Pachter's expertise in the industry, without violating his agreement not to compete with Gambro, Defendant Mark Ginsburg fraudulently induced Mr. Pachter to enter into the business venture with his brother and sister, Scott Ginsburg and Ricki Robinson.

51. All conditions precedent to this cause have occurred, have been performed, or have been waived and excused and are not necessary to maintain this action.

COUNT I

CLAIMS AGAINST MARK GINSBURG, SCOTT GINSBURG, RICKI ROBINSON, ROYCO, INC., ARTHUR ROSENTHAL, AND KENT MAHLKE FOR BREACH OF SHAREHOLDERS' AGREEMENT

52. Plaintiffs repeats and realleges all of the allegations in the complaint contained in

paragraphs 1 through 51 as though they were fully alleged in this paragraph.

53. In or about August 1995, the Shareholders of RDDDL entered into a Shareholder's Agreement which is attached as Exhibit A.

54. The Shareholder's Agreement was prepared by Tedesco & Landis and the attorneys consulted with and advised the principal shareholders concerning the import, details and effect of the Shareholder's Agreement which is enforceable pursuant to Florida Statute § 607.0732(2) (1995).

55. The Shareholder's agreement was adopted unanimously, in writing, and signed by all of the shareholders of RDDDL.

56. The essence of the Shareholder's Agreement, as stated expressly in the Agreement itself, is to provide for the continuity of management through the election of a specific board of directors and to preserve the management and control of RDDDL by prohibiting any change in management except by the unanimous vote of the Board of Directors.

57. Under the terms of the Agreement, the Shareholders agreed to the election of the following persons as Directors for the RDDDL: Bernard D. Pachter, Ricki Robinson, Arthur Rosenthal, Scott Ginsburg, and Roy S. Bresky.

58. Under the Agreement, the Shareholders also agreed following persons would serve as the primary operating officers of RDDDL: Bernard D. Pachter, as Chairman and President, Ricki Robinson, as Treasurer & Secretary, and Arthur Rosenthal, as Vice President.

59. The Agreement specifically requires all directors to be present in order to constitute a quorum for the transaction of business. Furthermore, the Agreement requires all acts on behalf of the Board of Directors to be approved by a unanimous vote of the Board of Directors.

60. The purpose and intent of the Agreement, as reflected by its terms, quorum and voting

requirements, was to ensure that Bernard Pachter would maintain control in the operation and management of RDDDL because of his expertise and experience in this specialized industry.

61. Defendants intentionally and knowingly breached the Shareholder Agreement by holding a Special Meeting of Directors and Shareholders of RDDDL without directing proper notice to Bernard D. Pachter.

62. The Defendants intentionally and knowingly breached the Shareholder Agreement and aided, abetted and assisted others to breach the Shareholder's Agreement, by purporting to transact business for RDDDL without the proper quorum or unanimous approval by the Board of Directors as is required by the Shareholder's Agreement.

63. Upon information and belief, the Defendants intentionally and knowingly breached the Agreement by purporting to elect Scott Ginsburg as President and Chairman of the Board for RDDDL without the proper quorum or unanimous approval as required by the Agreement. Moreover, without authority, the Defendants improperly notified the employees of RDDDL that Bernard Pachter had been replaced as President and Chairman of RDDDL.

64. The Plaintiffs have no adequate remedy at law because the amount of damage is impossible to determine and the loss of control and management of RDDDL can not be remedied by monetary damages.

65. As a result of the Defendants wrongful and intentional breach, Plaintiffs have suffered irreparable harm. Plaintiffs will continue to suffer irreparable damage if the Defendants continue to directly breach the terms of the Shareholder Agreement and continue to wrongfully control RDDDL in direct contravention to the Plaintiffs' rights.

66. In order to enforce his rights under the Shareholder's Agreement, the Plaintiffs were

required to hire an attorney and to pay a reasonable fee for the representation in this and related matters.

WHEREFORE, the Plaintiff respectfully requests this Court to enter an injunction specifically enforcing the terms of the Shareholder's Agreement, and declaring Bernard Pachter as the President and Chairman of the Board, for damages in the amount of \$5 million, together with costs, interest, attorneys fees and for such other and further relief as to this court may be just and proper.

COUNT II

CLAIMS AGAINST MARK GINSBURG, SCOTT GINSBURG, RICKI ROBINSON, ARTHUR ROSENTHAL, DANIEL LANDIS, TEDESCO & LANDIS AND KENT MAHLKE FOR TORTIOUS INTERFERENCE WITH AN ADVANTAGEOUS BUSINESS RELATIONSHIP

67. Plaintiffs readopt and reallege the allegations contained in paragraphs 1 through 51.

68. The Plaintiff Bernard Pachter, holds an advantageous business relationship with RDDDL as Chairman of the Board, President and Chief Executive Officer with his authority, control and management being assured by reason of the Shareholder's Agreement.

69. The Plaintiff Pachter Corporation holds an advantageous business relationship with RDDDL as a 48% shareholder of the corporation with its ownership, control and voting rights being controlled by reason of the Shareholder's Agreement.

70. The Plaintiffs' business relationships with RDDDL affords them existing and prospective legal and contractual rights which are beneficial and valuable personally, professionally and financially.

71. The Defendants were aware of the Plaintiffs' advantageous business relationship with

RDDL.

72. The Defendants acted personally, and aided, abetted and assisted each other, in a scheme to intentionally and wrongfully interfere with the Plaintiffs' business relationship by committing tortious acts, including, but not limited to the following:

- a. Wrongfully inducing the Board of Directors and Shareholders of RDDL to breach the Shareholder agreement and remove Bernard Pachter as the Chairman of the Board and President of RDDL;
- b. Wrongfully inducing the Board of Directors and Shareholders of RDDL to breach the Shareholder agreement and elect Scott Ginsburg as the Chairman of the Board and President of RDDL;
- c. Employing Scott Ginsburg and Ricki Robinson as "nominee" stockholders for Mark Ginsburg.
- d. Participating in a scheme to allege malfeasance, nonfeasance, dishonest and improper actions on the part of Bernard Pachter which Defendants know are bogus charges and which are calculated to obtain a civil advantage over Bernard Pachter by threatening to report Bernard Pachter to the criminal authorities.
- e. Falsely claiming dishonest and fraudulent actions by Bernard D. Pachter in an effort to create claims of malfeasance in order to falsely claim justifiable cause to divest control and management of RDDL from Mr. Pachter.
- f. Failing and refusing to pay legitimate expenses owed by RDDL but

incurred on the personal credit of Bernard Pachter.

73. The Defendants lack any legal justification for tortiously interfering with Plaintiffs' business relationship or for engaging in the fraudulent scheme to destroy the professional and business reputation of Bernard Pachter.

74. The Plaintiffs have suffered damages as a result of the breach of the relationship caused by the Defendant's malicious interference.

WHEREFORE, the Plaintiffs request this Court to award damages against the Defendants in the amount of \$5 million, together with costs, interest, attorneys fees and such other and further relief as to this court may seem just and proper.

COUNT III

CLAIMS AGAINST MARK GINSBURG, SCOTT GINSBURG, RICKI ROBINSON, AND DANIEL LANDIS FOR CONSPIRACY TO TORTIOUSLY INTERFERE WITH AN ADVANTAGEOUS BUSINESS RELATIONSHIP

75. Plaintiffs readopt and reallege the allegations contained in paragraphs 1 through 51, and the allegations contained in paragraphs 64 through 74.

76. The Defendants Mark Ginsburg, Scott Ginsburg, Ricki Robinson and Daniel Landis were co-conspirators in an scheme to tortiously interfere with Plaintiff's business relationships.

77. The Defendants entered into an agreement, the object of which was to interfere with the Plaintiffs' business relationship with RDDI.

78. In furtherance of the conspiracy, and upon information and belief, the Defendants committed the following acts:

- a. Defendant Mark Ginsburg appointed his brother and sister, Defendants Scott Ginsburg and Ricki Robinson, as nominee stockholders in

RDDL.

b. Defendant Mark Ginsburg wrongfully participated in the control, operations and management of RDDL by purporting to act on behalf of and under the authority of Scott Ginsburg and Ricki Robinson.

c. Defendant Scott Ginsburg and Ricki Robinson breached their fiduciary duties by acting as nominee stockholders, withholding this information and misrepresenting the interests of their brother, Mark Ginsburg, in RDDL.

d. Defendant Daniel Landis rendered substantial assistance to the Ginsburgs and Robinson in setting up this scheme so as to cover up the fact that Mark Ginsburg was the true stakeholder in RDDL.

e. Defendants Mark Ginsburg, Scott Ginsburg, Ricki Robinson and Daniel Landis falsely claimed dishonest and fraudulent actions by Mr. Pachter in an effort to mislead the other shareholders and directors of RDDL.

79. The Plaintiffs have suffered damages as a result of the Defendant's conspiracy.

WHEREFORE, the Plaintiffs request this Court to award damages against the Defendants in the amount of \$5 million, together with costs, interest, attorneys fees and such other and further relief as to this court may seem just and proper.

COUNT IV

CLAIMS AGAINST MARK GINSBURG, SCOTT GINSBURG, AND RICKI ROBINSON FOR CONSPIRACY TO COMMIT EXTORTION

80. Plaintiffs readopt and reallege the allegations contained in paragraphs 1 through 51.

87. At all times material to this action, Defendant Scott Ginsburg was a Director of RDDL.

88. At all times material to this action, Defendant Ricki Robinson was a Director, Treasurer & Secretary of RDDL.

89. At all times material to this action, Defendant Arthur Rosenthal was a Director and Vice President of RDDL.

90. Each Defendant owed a fiduciary duty of care and loyalty to RDDL, to Plaintiff Pachter Corp., as a stockholder of RDDL, and to Plaintiff Bernard Pachter, as a fellow Director and Officer of RDDL.

91. That duty required the Defendants to act with the required skill, care and diligence and required among other things that the Defendants not place the profits of RDDL at risk by knowingly and intentionally permitting agents of direct competitors to participate in the control and operation of RDDL.

92. Defendants breached their fiduciary duties by knowingly and intentionally permitting Defendant Mark Ginsburg to defraud RDDL.

93. Defendants breached their fiduciary duties by knowingly and intentionally permitting Defendant Mark Ginsburg to participate in the control and operation of RDDL. The Defendants permitted Mark Ginsburg to do so with full knowledge that he was not a shareholder, officer, or director, of RDDL. The Defendants permitted Mark Ginsburg to control and operate RDDL while fully aware that he is an agent of Gambro Corp., a direct competitor of RDDL.

94. Defendants breached their fiduciary duties by intentionally failing to advise RDDL of these material facts concerning Mark Ginsburg. By intentionally failing to disclose to RDDL this

information which directly affects the business of the corporation, the Defendants further breached their duties of care and loyalty by subjecting the profits of RDDDL to forfeiture by those persons defrauded by Mark Ginsburg.

95. Defendants Scott Ginsburg and Ricki Robinson breached their fiduciary duties by acting as nominee stockholders for Defendant Mark Ginsburg, where they acted under his direction and control rather than in the best interests of RDDDL. The Defendants acted fraudulently by concealing these material facts from the Board of Directors for their own personal financial gain.

96. The Defendants Scott Ginsburg and Ricki Robinson breached their fiduciary duties by abusing their positions of trust and confidence with Mr. Pachter. Since the inception of RDDDL, the Defendants intentionally misled Mr. Pachter into believing that their brother, Mark Ginsburg, was at all times acting on their behalf.

97. The Defendants Scott Ginsburg and Ricki Robinson breached their fiduciary duties by participating in conspiracies to defraud and extort Plaintiff Bernard D. Pachter for their own personal financial gain.

98. The Defendants Scott Ginsburg and Ricki Robinson breached their fiduciary duties for their own personal financial gain by participating in a conspiracy to violate a noncompete agreement between Mark Ginsburg and Gambro. The Defendants willfully engaged in this action with full knowledge that such action placed the operations and profits of RDDDL in serious jeopardy.

99. The Defendants breached their fiduciary duties by intentionally breaching several material provisions of the Shareholder's Agreement in derogation of the Plaintiffs' rights and to the detriment of the corporation. The Defendants were motivated to take such action for their own personal gain rather than to benefit the corporation.

100 By dishonestly and fraudulently withholding this information from the Board of Directors and Shareholders of RDDDL, and by participating in these dishonest schemes, the Ginsburg family and Arthur Rosenthal directly placed the profits and operations of RDDDL at risk.

101. The Plaintiffs have suffered damages as a result of the Defendants' breach of fiduciary duties.

WHEREFORE, the Plaintiffs request this Court to award damages against the Defendants in the amount of \$5 million, together with costs, interest, attorneys fees and such other and further relief as to this court may seem just and proper.

COUNT VI

CLAIMS AGAINST SCOTT GINSBURG, RICKI ROBINSON, ROYCO, INC. AND MARK GINSBURG FOR CONSPIRACY TO INJURE PLAINTIFFS BY FRAUDULENTLY VIOLATING AN AGREEMENT NOT TO COMPETE

102. Plaintiffs readopt and reallege the allegations contained in paragraphs 1 through 51.

103. Upon information and belief, Defendant Mark Ginsburg entered into a legal agreement with Gambro which prohibited, directly and indirectly, his competition with Gambro. Upon information and belief, under the terms of this agreement, Mark Ginsburg agreed not to participate in business, such as RDDDL, which directly or indirectly competed with Gambro. Upon information and belief, Defendant Scott Ginsburg was aware of this legal agreement because he participated in negotiations on behalf of Mark Ginsburg. Upon information and belief, the Defendants Scott Ginsburg, Royco, Inc. and Ricki Robinson were fully aware of the restrictions of this agreement not to compete with Gambro.

104. The Ginsburg family entered into an agreement, the illegal object of which was to

permitted Defendant Mark Ginsburg to surreptitiously violate this agreement not to compete, by employing means of fraud and misrepresentation. This sophisticated conspiracy involved recruiting and taking advantage of an experienced and renowned professional in the industry, such as Bernard Pachter. The object of the conspiracy was to use Mr. Pachter's skill and expertise to develop a profitable and successful corporation, one which would be purposefully structured to conceal Mark Ginsburg's involvement and perpetrate a fraud upon Gambro.

105. In furtherance of this conspiracy, Defendant Mark Ginsburg induced Bernard D. Pachter to enter into a business venture, RDDDL, with his siblings, Scott Ginsburg and Ricki Robinson. Mark Ginsburg falsely represented that his siblings would provide the financial backing.

106. In furtherance of this conspiracy, Defendant Mark Ginsburg falsely represented to Mr. Pachter that he would not participate in RDDDL because of his noncompete agreement with Gambro; that he was merely acting as an agent for his siblings.

107. In furtherance of this conspiracy, Defendant Mark Ginsburg participated in the direct control and operation of RDDDL by fraudulently and deceitfully employing his brother and sister as nominee stockholders and by purporting to act through Royco, Inc.

108. In furtherance of this conspiracy, Defendants Royco, Inc., Scott Ginsburg and Ricki Robinson acted as nominee stockholders in RDDDL for Defendant Mark Ginsburg.

109. In furtherance of this conspiracy, Defendants intentionally withheld this information from the Plaintiffs and misrepresented their roles as officers, directors and shareholders, and concealed the true stake of their brother, Mark Ginsburg, in RDDDL.

110. In furtherance of this conspiracy, the Defendants intentionally misled Mr. Pachter into believing that Mark Ginsburg was at all times acting on behalf of Scott Ginsburg and Ricki

Robinson. The Ginsburg family used these false misrepresentations to gain the trust and confidence of Mr. Pachter in order to continue and conceal the fraud against RDDDL and Gambro.

111. The Plaintiffs have suffered damages as a result of the Defendants' conspiracy.

WHEREFORE, the Plaintiffs request this Court to award damages against the Defendants in the amount of \$5 million, together with costs, interest, attorneys fees and such other and further relief as to this court may seem just and proper.

COUNT VII

CLAIMS AGAINST MARK GINSBURG, SCOTT GINSBURG, RICKI ROBINSON, ROYCO, INC. AND DANIEL LANDIS FOR CONSPIRACY TO COMMIT FRAUD

112. Plaintiffs readopt and reallege the allegations contained in paragraphs 1 through 51 and paragraphs 101 through 111.

113. The Defendants Mark Ginsburg, Scott Ginsburg, Ricki Robinson, Royco, Inc. and Daniel Landis were co-conspirators in an scheme to defraud the Plaintiffs and fraudulently misrepresent their participation in RDDDL.

114. The Defendants entered into an agreement, the object of which was defraud the Plaintiffs by making fraudulent misrepresentations as to their interests and participation in RDDDL.

115. Upon information and belief, in furtherance of the conspiracy, the Defendants committed the following acts:

- a. Defendant Mark Ginsburg falsely and intentionally represented to Mr. Pachter that his siblings would provide the financial backing for RDDDL, and that his involvement would be limited to acting as an agent for his siblings.
- b. Defendant Mark Ginsburg appointed his brother and sister,

Defendants Scott Ginsburg and Ricki Robinson, as nominee stockholders in RDDL. Mark Ginsburg then proceed to employ his siblings in this nominee stockholder scheme to purposefully mislead Mr. Pachter and to conceal his direct involvement in RDDL.

c. Defendant Mark Ginsburg, upon information and belief, actively concealed his financial contributions to RDDL by funneling his funds through a nominee bank account purportedly held only by Ricki Robinson and/or Scott Ginsburg at Nations Bank. Upon information and belief, Defendant Mark Ginsburg is a signatory to this account.

d. Defendants Scott Ginsburg and Ricki Robinson breached their fiduciary duties by acting as nominee stockholders, intentionally withholding this information and misrepresenting the interests of their brother, Mark Ginsburg, in RDDL.

e. Defendants Scott Ginsburg and Ricki Robinson breached their fiduciary duties by assisting Defendant Mark Ginsburg in setting up the nominee bank account at Nations Bank and misrepresenting the purpose of this account to the Plaintiffs and RDDL. Upon information and belief, Defendants falsely represented that the funding for RDDL would come from the Nations Bank account which was funded by Scott Ginsburg and Ricki Robinson. Upon information and belief, however, Defendant Mark Ginsburg is a signatory to this account.

f. Defendant Daniel Landis rendered substantial assistance to the

Ginsburg and Robinson in setting up this scheme and structuring the corporation so as to cover up the fact that Mark Ginsburg was the true beneficiary of the nominee stockholder scheme.

g. Defendant Daniel Landis abused his position of trust with the Plaintiffs by intentionally concealing the nominee stockholder scheme from the Plaintiffs.

h. Defendants participated in this nominee stockholder scheme in order to take advantage of the skill and expertise of Mr. Pachter.

i. Defendants falsely represented to Mr. Pachter that he would be reimbursed for any funds he personally advanced as an accommodation to RDDDL. Defendants made these false representations with the intent to induce Mr. Pachter to incur personal liability. Specifically, the Defendants induced Mr. Pachter to incur personal liability for an automobile lease and for expenses for RDDDL on his personal Citibank Mastercard.

116. The Plaintiffs have suffered damages as a result of the Defendant's conspiracy.

WHEREFORE, the Plaintiffs request this Court to award damages against the Defendants in the amount of \$5 million, together with costs, interest, attorneys fees and such other and further relief as to this court may seem just and proper.

COUNT VIII

CLAIM AGAINST MARK GINSBURG FOR FRAUD

117. Plaintiffs readopt and reallege the allegations contained in paragraphs 1 through 51.

118. Upon information and belief, Defendant Mark Ginsburg entered into a legally binding

contract and agreement not to compete with Gambro. Under the terms of this agreement, he agreed not to participate in business, such as RDDDL, which directly competed with Gambro. Defendant Ginsburg undertook a fraudulent scheme to violate this agreement by developing a business venture in which he would actively conceal his involvement.

119. In or about May 1995, Defendant Mark Ginsburg approached Bernard D. Pachter and made false representations to him, including, but not limited to the following:

- a. That he was acting on behalf of his siblings, Scott Ginsburg and Ricki Robinson, who were interested in finding the appropriate person to establish and operate a specialty laboratory.
- b. That his siblings were interested in recruiting Mr. Pachter for this investment project because of his vast experience and reputation in the industry.
- c. That Mark Ginsburg, himself, would not participate or invest in this business venture because of his legally binding contract with Gambro which prohibited any direct or indirect competition with Gambro.
- d. That Scott Ginsburg and Ricki Robinson would provide all of the necessary financial backing for RDDDL.
- e. That the business venture, RDDDL would be structured so as to ensure that the Plaintiff would maintain control of the business as a majority shareholder, President, Chairman of the Board, and Chief Executive Officer for a period of at least 5 years because of his business experience and expertise in the industry.

f. That as a condition of his employment, Mr. Pachter would be granted an automobile allowance. Despite requests, the Ginsburg Defendants have failed and refused to authorize the payment of this expense in order to tortiously harm Mr. Pachter.

g. That if Mr. Pachter were to advance personal funds as an accommodation to RDDDL, he would be reimbursed for those expenses. Despite repeated requests, the Ginsburg Defendants have failed and refused to authorize the payment of these expenses in order to tortiously harm Mr. Pachter.

120. During the growth and development of RDDDL, Defendant Mark Ginsburg misrepresented to Plaintiff that at all times regarding his "participation" in RDDDL, he was acting on behalf of Scott Ginsburg and Ricki Robinson.

121. Upon information and belief, since the inception of RDDDL, Defendant Mark Ginsburg also willfully concealed material facts, including, but not limited to the following:

a. That his siblings, Scott Ginsburg and Ricki Robinson, would and did serve as nominee stockholders in order to conceal Mark Ginsburg's involvement and investment in this business venture.

b. That Defendant Mark Ginsburg himself, would and did provide funding for the establishment and growth of the new company by funneling the money through his siblings, the nominee stockholders.

c. That Defendant Mark Ginsburg himself, would and did participate in the operations of RDDDL for his own personal financial gain.

122. The Defendant made these false representations and concealed these material facts with the intent to induce Plaintiff to enter into this business venture, RDDDL, and to induce Plaintiff to render his time, services, and expertise to the establishment of RDDDL. The Defendant also made these false representations with the intent to induce Plaintiff to incur personal expenses and liability on behalf of RDDDL.

123. The Defendant's deceitful misrepresentations induced Plaintiff to allow Defendant Mark Ginsburg to participate in the operations of RDDDL as Plaintiff was under the belief that he was acting upon the instructions of Scott Ginsburg and Ricki Robinson.

124. These representations were false and known by the Defendant to be false at the time they were made as these representation were part of the Defendant's fraudulent scheme to conceal his ownership, control and participation in the RDDDL business venture.

125. These representations were false and known by the Defendant to be false at the time they were made because Defendant intended to take advantage of Plaintiff's experience, reputation, and expertise and then wrongfully eliminate Plaintiff's control of the corporation, divest the Plaintiff of his ownership interests in RDDDL, and prevent the Plaintiff from enjoying the income and benefits of his efforts.

126. These representations were false and known by the Defendant to be false at the time they were made because Defendant intended to use his siblings, Scott Ginsburg and Ricki Robinson, as nominee stockholders who would, in actuality, act under his direction and for his interests. Defendant also intended to fund the establishment of RDDDL by funneling the money through his siblings.

127. These representations were false and known by the Defendant to be false at the time

they were made because Defendants intended to use this method in order to induce Mr. Pachter to incur personal credit expenses so that they could eventually refuse to reimburse him thereby adding economic pressure to Mr. Pachter. Despite repeated requests, the Ginsburg Defendants have refused to authorize RDDDL to reimburse Plaintiff for the expenses and financial liabilities he personally incurred as an accommodation to RDDDL.

128. Based on the Defendant's representations, the Plaintiff entered into the business venture to develop RDDDL with Ricki Robinson and Scott Ginsburg,

129. Based on the Defendant's representations, the Plaintiff rendered his time, services and expertise to RDDDL.

130. Based on the Defendant's representations, the Plaintiff advanced funds in excess of \$20,000, and there is currently due and outstanding approximately \$5,000 through his personal credit card and personally assumed the liability of an automobile lease as an accommodation to RDDDL. Despite repeated requests, this amount has not been paid.

131. The Plaintiff has suffered damages as a result of the Defendants' conspiracy.

WHEREFORE, the Plaintiffs request this Court to award damages against the Defendants in the amount of \$5 million, together with costs, interest, attorneys fees and such other and further relief as to this court may seem just and proper.

COUNT IX

CLAIM AGAINST MARK GINSBURG, ARTHUR ROSENTHAL, KENT MAHLKE and SCOTT GINSBURG FOR SLANDER

132. Plaintiffs readopt and reallege the allegations contained in paragraphs 1 through 51.

133. On or about November 1996, Defendants Mark Ginsburg, Arthur Rosenthal, Kent

Mahlke and Scott Ginsburg, intentionally attempted to destroy the credibility and reputation of Plaintiff Bernard Pachter by making defamatory statements concerning the Plaintiff's ability in his trade and profession in general, and concerning the Plaintiff's ability as an officer and director of RDDDL.

134. Upon information and belief, the Defendants named herein spoke the following untrue words as statements of fact:

- a. That the Plaintiff was guilty of embezzling corporate assets and funds for his own personal financial benefit;
- b. That the Plaintiff was engaged in fraudulent transactions involving RDDDL for his own personal financial benefit;
- c. That the Plaintiff committed malfeasance, nonfeasance and was incompetent and unqualified to serve as a Director, Chief Executive Officer and President of RDDDL because of various dishonest actions.

135. Defendants Mark Ginsburg, Arthur Rosenthal, Kent Mahlke and Scott Ginsburg intentionally published these statements to the Shareholders, Directors, and employees of RDDDL, customers and potential customer of RDDDL, knowing full well that the laboratory industry is a small industry and well knowing that this false information would be disseminated in order to further defame the and damage the Plaintiff throughout the community in which he does business.

136. At the time these statements were made, Defendants Mark Ginsburg, Arthur Rosenthal, Kent Mahlke and Scott Ginsburg knew that they false and misleading. Despite the truth, he told these falsehoods as part of a malicious scheme to defame and injure Bernard D. Pachter and in order to force Plaintiff to abandon his control and interest in RDDDL

137. These statements were false and degraded and injured the Plaintiff's standing in the community, his business reputation and character, his reputation for honesty, integrity, and law-abiding respect, and thereby, exposed Plaintiff to distrust, humiliation, disgrace and denunciation.

WHEREFORE, the Plaintiffs request this Court to award damages against the Defendants in the amount of \$5 million, together with costs, interest, attorneys fees and such other and further relief as to this court may seem just and proper.

DEMAND FOR JURY TRIAL

The Plaintiffs demand a jury trial on all issues and all counts to which they are entitled.

Dated: December 4, 1996

Respectfully submitted,

HOULIHAN & PARTNERS, P.A.
2600 Douglas Road, Suite 600
Miami, Florida 33134
Telephone: (305) 460-4091
Facsimile: (305) 460-4099

By: 

GERALD J. HOULIHAN
Florida Bar No. 0458430

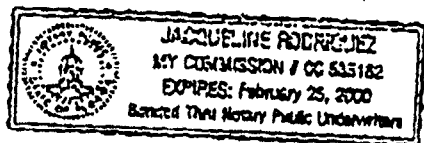
VERIFICATION

Under penalties of perjury, I declare that I have read the foregoing Complaint and that the facts stated in it are true, accurate and correct to the best of my knowledge and belief.


Bernard D. Pachter

This Complaint was sworn to and subscribed before me December 4, 1996. Bernard D. Pachter personally appeared before me and is personally known to me or produced _____ as identification, and [did] [did not] take an oath.

[NOTARIAL SEAL]



Notary: Jacqueline Rodriguez
Print Name: Jacqueline Rodriguez
Notary Public, State of Florida
My commission expires: 2-25-00

FAGJHPACHTERCOMPLT.DRA